

EXHIBIT 1 HUH
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HB 530

February 16, 2009

HB 530: Revising the definition of the practice of "social work" to clarify that the term includes "diagnosis" and "administering, evaluating, and assessing tests"

Section 37-22-102, MCA, contains definitions that define the scope of practice for licensed clinical social workers in Montana.

HB 530 amends that section to insert language to clarify that the scope of practice for clinical social workers includes their ability to perform diagnoses and testing.

► This is a "clean-up bill". Clinical social workers are prepared by their education and clinical training to diagnose, for the purpose of setting treatment goals and objectives for their clients. They also are qualified to administer, evaluate, and assess (psychological) tests.

► The Montana Social Work licensing law was enacted in 1983, 26 years ago. The law has changed little since its original passage. It was an oversight in the original legislation not to include these terms.

► Forty three other states have language in their licensing statutes for social workers that explicitly include the "use of diagnosis" within their "scope of practice" statutes.

► The Board of Social Work Examiners adopted an administrative rule to try to clarify that their licensees are trained to perform diagnosis and testing. They adopted ARM § 24.219.301(5)9c) which states that for social workers "psychotherapy and counseling" includes the "therapeutic process of conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives..."

► HB 530 provides the statutory authority for this provision in the administrative rules.

Supporting HB 530 promotes Montanans' access to mental health services by clarifying clinical social workers' scope of practice in this critical area.

Sub-Chapter 3

Definitions

24.219.301 DEFINITIONS (1) "Psychosocial methods" means those professional techniques which are identified as clinical in nature and:

- (a) enhance the problem solving and coping capacity of people;
 - (b) link people with systems that provide them with resources, services and opportunities;
 - (c) promote effective and humane operation of these systems; and
 - (d) contribute to the development and improvement of social policy.
- (2) "Direct client contact" means physical presence, telephonic presence, or interactive video link presence of the client, client family member, or client representative.

(3) "Qualified supervisor" means a licensed social worker, licensed psychologist, or a licensed and board-certified psychiatrist. A licensed psychologist or psychiatrist shall only qualify to supervise one half of the total hours required, with a licensed social worker supervisor required for at least half.

(4) "Direct observation" of service delivery means participation in the service delivery, observation through a two-way mirror, observation of a video or audiotape of the service delivery, or observation through an interactive video link of the service delivery.

(5) "Psychotherapy and counseling" means the therapeutic process of:

- (a) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives; or
- (b) planning, implementing, and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional or behavioral disorders and associated distresses that interfere with mental health. (History: 37-22-201, MCA; IMP, 37-22-102, 37-22-201, MCA; NEW, 1984 MAR p. 440, Eff. 3/16/84; AMD, 1991 MAR p. 1931, Eff. 10/18/91; AMD, 1993 MAR p. 3015, Eff. 12/24/93; AMD, 2001 MAR p. 558, Eff. 4/6/01; TRANS, from Commerce, 2004 MAR p. 1477.)

24.219.504 LICENSURE REQUIREMENTS (1) For the purpose of meeting the 3000-hour requirement of 37-22-301(2)(b), MCA, an applicant shall provide verification of the following:

(a) 3000 supervised hours spent providing psychotherapy or clinical social work services to individuals, families, and groups, of which at least 50 percent shall include the application of psychosocial methods in direct client contact;

(b) supervision, on a form approved by the board, which shall include at least 100 documented hours of individual or group supervision by a qualified supervisor. At least 50 percent of the 100 hours shall be individual and face-to-face by a licensed social worker, and at least ten hours of which includes direct observation of the service delivery. Each supervisory session shall be documented with the following information:

(i) date and length of supervision in increments not less than 15 minutes;

(ii) names of applicant, supervisor (including type of license and number) and signatures of both;

(iii) content summary (excluding confidential information).

(c) supervision which has been conducted on a regular basis. No more than 160 hours of social work experience shall transpire without providing at least two hours of supervision. Less frequent supervision may take place under unusual circumstances only with prior approval by the board.

(d) supervisor's experience and expertise with the applicant's client population (i.e. child, adolescent, adult, chemically dependent) and methods of practice (i.e. individual, group, family, crisis or brief interventions).

(e) supervisor's relationship with the applicant which shall not constitute a conflict of interest, such as (but not limited to) being in a cohabitation or financially dependent relationship with the applicant, or being the applicant's parent, child, spouse or sibling.

(f) a supervision agreement in writing and in a format approved by the board. The agreement shall include, but not be limited to:

(i) the applicant's and supervisor's names, signature and dates;

(ii) terms of the agreement including financial compensation, frequency and method of supervision, duration and termination provision; and

(iii) a statement of confidentiality and the supervisor's qualifications.

(2) The 3000 hours shall have been completed in their entirety at the time of submission of the application. (History: 37-22-201, MCA; IMP, 37-22-102, 37-22-201, 37-22-301, MCA; NEW, 1984 MAR p. 440, Eff. 3/16/84; AMD, 1988 MAR p. 169, Eff. 1/29/88; AMD, 1993 MAR p. 1325, Eff. 6/25/93; AMD, 1994 MAR p. 26, Eff. 12/24/93; TRANS, from Commerce, 2004 MAR p. 1477.)

Rules 24.219.505 through 24.219.508 reserved

Sub-Chapter 23

Unprofessional Conduct

24.219.2301 UNPROFESSIONAL CONDUCT FOR SOCIAL WORKERS

- (1) Violation of any of the following constitutes unprofessional conduct:
- (a) Misrepresent the type or status of license held by the licensee.
 - (b) Intentionally cause physical or emotional harm to a client.
 - (c) Misrepresent or permit the misrepresentation of his or her professional qualifications, affiliations or purposes.
 - (d) Have sexual relations with a client, solicit sexual relations with a client or to commit an act of sexual misconduct or a sexual offense if such act, offense or solicitation is substantially related to the qualifications, functions or duties of the licensee.
 - (e) Engage in sexual acts with a client or with a person who has been a client within the past 18 months. A licensee shall not provide social work services to a person with whom the licensee has had a sexual relation at any time.
 - (f) Perform or hold himself or herself out as able to perform professional services beyond his or her field or fields of competence as established by his or her education, training and/or experience.
 - (g) Permit a person under his or her supervision or control to perform or permit such person to hold himself or herself out as competent to perform professional services beyond the level of education, training and/or experience of that person.
 - (h) Prior to the commencement of treatment, fail to disclose to the counselee, or prospective counselee, the fee to be charged for the professional services, or the basis upon which such fee will be computed. (History: 37-1-131, 37-1-319, 37-22-201, MCA; IMP, 37-1-306, 37-22-201, MCA; NEW, 1989 MAR p. 755, Eff. 6/16/89; AMD, 1994 MAR p. 298, Eff. 2/11/94; AMD, 1997 MAR p. 986, Eff. 6/3/97; TRANS, from Commerce, 2004 MAR p. 1477.)

Rules 24.219.2302 through 24.219.2304 reserved